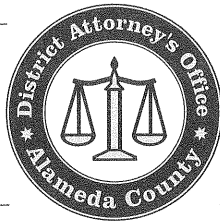


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**Office of the District Attorney  
Alameda County  
Nancy E. O'Malley, District Attorney**

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**Rene C. Davidson Courthouse  
1225 Fallon Street, Suite 900  
Oakland, CA 94612**

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April 19, 2012

Chief Mitchell Celaya  
#1 Sproul Hall,  
Berkeley, CA 94720

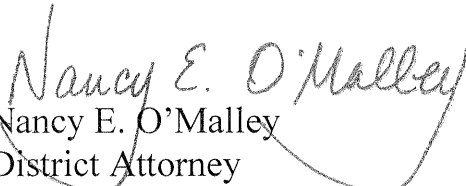
Dear Chief Celaya:

Enclosed is the District Attorney's Report on the fatal shooting of Christopher Travis which occurred on November 15, 2011.

I have reviewed the report and agree with the conclusion that the evidence does not justify criminal charges against University of California at Berkeley Police Sgt. Andrew Tucker. As indicated in the report, no further action will be taken in this case.

Pursuant to our Policy, we will release this report for public review five days after release to you. This provides you with time to review the report, provide any feedback if appropriate, and notify the officer(s). If you need additional time before we release this report, please contact me or Chief Assistant District Attorney Kevin Dunleavy as soon as possible.

Very truly yours,

  
Nancy E. O'Malley  
District Attorney

NEO:rt

Enclosure

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**DISTRICT ATTORNEY'S REPORT ON THE FATAL  
SHOOTING OF CHRISTOPHER TRAVIS**

## **INTRODUCTION**

On November 15, 2011, at approximately 2:30 PM, Sgt. Andrew Tucker, of the University of California at Berkeley Police Department shot and killed Christopher Travis in Room S300T of the Haas School of Business. The following report documents the investigation and findings of the Alameda County District Attorney's Office regarding the question of any criminal liability on the part of Sgt. Tucker.

## **SCOPE OF INVESTIGATION**

Deputy District Attorney Christopher Lamiero and District Attorney Inspector Frank Moschetti responded to the Haas School of Business (HSB), located on the campus of the University of California at Berkeley, on the afternoon of November 15, 2011. DDA Lamiero and Inspector Moschetti examined the scene of the shooting, located in Room S300T of the HSB, with investigators from the University of California at Berkeley Police Department and the Alameda County Sheriff's Department. DDA Lamiero and Inspector Moschetti participated in the recorded interview of Sgt. Andrew Tucker. DDA Lamiero reviewed all police reports, crime scene technician reports, witness statements, photographs, video surveillance tapes, and the autopsy report prepared by the Alameda County Coroner's Office.

## **SCENE**

The incident took place in Room S300T, a computer laboratory within the HSB. The HSB is located at 2220 Piedmont Avenue, in Berkeley. It is situated at the southeastern corner of the University of California at Berkeley campus and is contained within three connected buildings surrounding a central courtyard. Room S300T is located on the third floor of the Student Services Building. It is accessed through a door leading from Room S300, the HSB

Computer Center. There is a rear exit door from Room S300T opening onto a hallway leading to other offices within the building. Room S300 itself is accessed directly from the building lobby.

Room S300T is rectangular in shape and runs 30 feet from north to south and 40 feet from east to west. It contains 13 tables set in parallel rows divided by a center aisle running from east to west. There are six tables on the north side of the aisle and seven on the south. Each table contains several computer workstations, including monitors, set up for the use of HSB students. All computer monitors set up at the tables are positioned such that the user faces the east wall of the room. From Room S300, Room S300T is accessed through a door located in the center of the north wall. The rear exit door from Room S300T is located in the west wall at the end of the center aisle.

Room S300T is designed for the use of students of the HSB. Students wishing to use computer workstations within the room are required to check in with a staff member at a desk in Room S300. They are then assigned a password for the purpose of logging into the individual computer workstations.

### **FACTUAL SUMMARY**

On November 15, 2011, at 2:17 PM, the University of California at Berkeley Police Department received a 911 call from Gerardo Campos and Lyle Nevels. Mr. Nevels told police that an employee of the HSB had reported seeing a man with a gun. The man was described as a white male in his 20s, 5 feet 8 inches tall, weighing approximately 180 pounds, wearing a blue jacket and carrying a blue or black backpack. Mr. Nevels told police that the man was in a computer training room at the HSB. Dispatchers broadcast the information received from Mr. Nevels to on duty police personnel.

## **SERGEANT ANDREW TUCKER**

Sgt. Andrew Tucker is a 15 year veteran of the University of California at Berkeley Police Department. He has held the rank of Sergeant of Police since April of 2001. He came on duty at 7 AM on the morning of November 15, 2011. He wore a full police uniform and was assigned to work as liaison between his department and officers from the University of California at Irvine Police Department, who were in Berkeley pursuant to a mutual aid agreement to assist with demonstrations by members of the "Occupy" movement. Sgt. Tucker was armed with his department issued .40 Caliber "Sig Sauer, model P229" semi-automatic pistol, which he wore in a holster attached to his utility belt. The weapon was fully loaded with 13 rounds of department issued ammunition, with a magazine containing 12 rounds and an additional round in the firing chamber.

At approximately 2:00 PM, Sgt. Tucker, along with several officers from Irvine, went to the Senior Hall building to witness the swearing in of several new police officers. Prior to the commencement of the ceremony, Sgt. Tucker overheard police radio transmissions referring to the HSB. Listening further, he heard a police dispatch stating that someone had reported seeing a man with a gun at the HSB. Realizing the HSB was only 100 yards away from the Senior Hall building, Sgt. Tucker decided to proceed there on foot to investigate the report.

Sgt. Tucker met up with another responding officer, Officer Zuniga, at the western edge of the HSB facility. Sgt. Tucker, who had continued monitoring the radio transmissions, heard that someone had reported seeing a gun in a person's backpack. He also heard that the incident was occurring in Room S300. The person with the gun was being described by dispatch as a white male in his 20s with brown or blond hair wearing a blue jacket and carrying a black backpack. With the additional information from dispatch, Sgt. Tucker and Officer Zuniga continued toward Room S300.

When Sgt. Tucker and Officer Zuniga arrived outside Room S300, they encountered Officer Garlick, who was speaking with several staff members who were providing her information regarding the person seen with a gun. Officers were told that the man seen with the gun was in the computer lab, Room S300T.

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Sgt. Tucker directed Officers Zuniga and Garlick to take a position at the rear exit from Room S300T. Officers Zuniga and Garlick were in turn lead to the location of the rear door by a staff member. Other officers on the scene included Officers Torres, Long and Samuels. Sgt. Tucker advised those three officers that they, along with he, would “go in there and low-key it.” He further advised the officers to “watch his hands.” Sgt. Tucker didn’t want to create an unnecessary disturbance, but wanted to make sure that in light of the call relating to an individual with a gun, he and the other officers were prepared for any situation that may develop.

Sgt. Tucker, and Officers Torres, Long and Samuels were directed by a male staff member through Room S300 and into Room S300T. Room S300T was brightly lit and contained several parallel rows of tables, each with several computer monitors atop them. Sgt. Tucker asked the male staff member, “So, where is he?” The staff member replied, while motioning toward the southwest corner of the room, “He’s back in the corner.”

Sgt. Tucker moved further into the room and observed seated in the southwest corner a white male in his twenties. The male had brown hair and appeared to be wearing blue. He was the only person seated in the back corner of the room, the location to which the staff member had directed him. Sgt. Tucker did not recognize the person as anyone he knew or had previously seen. However, his appearance was consistent with the description of the man reported to have a gun. The man seated in the corner of the room was Christopher Travis. Aside from Mr. Travis, the room appeared to Sgt. Tucker to be occupied by approximately half a dozen other people.

Officers Torres and Long entered the room in front of Sgt. Tucker, turned right at the center aisle and walked to the last row of tables, at which Mr. Travis was seated in the corner. At the time he entered the room, Sgt. Tucker does not recall where Officer Samuels was. Sgt. Tucker also turned right after entering the room, heading west down the aisle, however he turned left a few rows short of the last row of tables. This placed him several rows away from Mr. Travis. From this position, Sgt. Tucker was facing the back of the computer monitor placed atop the table at which Mr. Travis sat. By the time Sgt. Tucker arrived at this position, Officers Torres and Long had reached the row where Mr. Travis was seated. Sgt. Tucker saw Mr. Travis look at the officers at the end of his row, then lean forward and down. Due to the presence of the computer monitor placed on the table in front of him, Sgt. Tucker could not see what Mr. Travis was doing with his hands.

Within moments, Mr. Travis rose up and Sgt. Tucker heard the other officers yell out, "Drop the gun! Put the gun down! Drop the gun!" At that moment, due to the obstruction by the computer monitor, Sgt. Tucker could only see Mr. Travis' chest and head area. Sgt. Tucker then moved slightly to his left, allowing him to see around the computer monitor. He could now see that Mr. Travis was holding a handgun in his right hand. Sgt. Tucker saw that Mr. Travis' torso was facing the computer monitor on the table in front of him and his head was facing in the direction of Officers Torres and Long. He saw also that Mr. Travis was pointing the gun directly at Officers Torres and Long. Sgt. Tucker did not see whether Officers Torres and Long had their weapons drawn.

Sgt. Tucker withdrew and aimed his pistol at Mr. Travis and in a loud voice commanded, "Drop the gun! Drop the gun!" Mr. Travis did not appear to acknowledge the commands of Sgt. Tucker or the other officers. Rather, he continued to point the gun he held directly toward Officers Torres and Long.

Sgt. Tucker noted the appearance of the gun Mr. Travis held and concluded that it was a real firearm. He believed Mr. Travis was about to shoot and kill someone. Fearing that every passing moment was providing an opportunity for Mr. Travis to discharge his firearm, killing the officers or others in the room, Sgt. Tucker fired his pistol at him, striking him several times in the upper body area. Sgt. Tucker recalls firing five rounds of ammunition at Mr. Travis.

After he fired his pistol, Sgt. Tucker no longer saw the gun in Mr. Travis' hand. Rather, he saw Mr. Travis look directly at him and with one of his hands tap several times on the side of his head before his body began to sink in the chair as his knees slid forward. Sgt. Tucker heard Officer Long say, "I kicked the gun away." Sgt. Tucker then saw on the ground the gun he had moments before seen in Mr. Travis' hand. Officers Torres and Long then put gloves on their hands, helped Mr. Travis out of the chair and began rendering him first aid. Sgt. Tucker heard someone say, "Call BFD." BFD is the Berkeley Fire Department, which provides emergency medical services. Having fired his own weapon, Sgt. Tucker followed departmental policy and refrained from touching Mr. Travis or any potential evidence.

#### **OFFICER KENNETH TORRES**

Officer Torres has been a police officer with the University of California at Berkeley Police Department since June of 1981. On November 15, 2011 he began his shift at 6:30 AM. He was wearing a full police uniform and assigned to patrol duties.

That afternoon, Officer Torres was in his patrol car on the north side of campus when he received information over his police radio that there was a man with a gun at the HSB. He broadcast over the radio that he would be responding to the call and drove immediately to the HSB. He arrived in the lobby outside Room S300 less than two minutes later and noticed that several other officers had arrived before him. Sgt. Tucker, Officers Long, Samuels, Garlick and Zuniga, were there and obtaining details of the incident from a civilian employee.



The ensuing plan of action called for the civilian employee to proceed to the area where the person with the gun was reported to be so that the civilian employee could identify the suspect. Officer Torres accompanied the civilian employee, Sgt. Tucker and Officers Long and Samuels to a computer laboratory. The civilian employee pointed out a man in the corner of the room, identifying him as the person with a gun. The man pointed out by the civilian employee was Christopher Travis.

Officer Torres was the first to enter the room, followed next by Officers Long, Samuels and Sgt. Tucker. Officers Torres, Long and Samuels quickly walked down the center aisle to the back row of tables, where they turned to the left and faced toward Mr. Travis.

When the officers reached the last row, Mr. Travis reached into a dark colored backpack and removed a gun, cocked it, then held it in his lap area. Officer Torres yelled out, "Gun!" As he did so, he jumped back and tried to obtain some cover from a small, offset portion of the west wall. He then looked back toward Mr. Travis and saw that he still held the gun, pointed in his direction. Officer Torres also saw that two young women were between him and Mr. Travis. Officer Torres had his own gun out, but hesitated to fire at Mr. Travis for fear the young women would be caught in the cross fire between him and Mr. Travis.

Officers began yelling, "Drop the gun, drop the gun," as the young women began to make their way out of the area. Mr. Travis began to raise the gun in the direction of Officers Long and Samuels when shots rang out. Mr. Travis' gun then fell from his hand and he began to slump down in his chair.

Officer Torres kicked out of the way the gun dropped by Mr. Travis and he and other officers put on gloves and began the process of administering first aid. When Mr. Travis heard mention of the Berkeley Fire Department having been summoned he said, "I don't want BFD."

Officer Torres asked Mr. Travis why he hadn't dropped the gun. Mr. Travis replied, "I couldn't. I couldn't."

## **OFFICER CHRISTOPHER SAMUELS**

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Officer Samuels has been a police officer with the University of California at Berkeley Police Department since 1990. Prior to 1990, Officer Samuels was for five years a police officer with the city of East Palo Alto. On the day of the shooting, he was on duty, in full police uniform and assigned to patrol.

That afternoon, Officer Samuels heard a police dispatch regarding a man with a gun at the HSB. He responded to the HSB and arrived at the same time as Officer Long. He and Officer Long together walked to the area outside Room S300 where they met up with Sgt. Tucker, as well as Officers Garlick and Torres.

After learning that the suspect was inside Room S300T, Officer Samuels entered the room behind Officers Torres and Long. Behind Officer Samuels followed Sgt. Tucker. Once inside Room S300T, Officer Samuels and Officers Torres and Long moved down the center aisle toward the last row of tables, where Christopher Travis sat alone in the southwest corner.

When Officer Samuels and the other officers arrived at the back row, Officer Samuels observed Mr. Travis remove a handgun from an item of luggage and hold it in his lap area. Officer Samuels drew his own weapon and he and other officers began issuing commands to Mr. Travis to put his "hands up in the air."

Officer Samuels noticed that there were three female students who appeared to be in the line of fire between him and Mr. Travis. He told the female students to "move, move. Get out, get out." As the female students moved out of the way, he saw Sgt. Tucker fire his weapon at Mr. Travis.

After Mr. Travis had been shot, Officer Samuels left Room S300T to summon help. This was necessary due to the room being constructed such that radio transmissions to police dispatch could not be made.

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#### **OFFICER BENJAMIN LONG**

Officer Benjamin Long has been a police officer with the University of California at Berkeley Police Department since October of 2007. On the afternoon of the shooting, he was on duty and wearing a full, police uniform. He was near Memorial Stadium when he received a dispatch call of a man with a gun at the HSB. He proceeded to the HSB where he met up with Sgt. Tucker and Officers Garlick, Zuniga, Torres and Samuels.

After receiving information that the man with a gun was in the far corner of a computer room, Officer Long entered the room along with Sgt. Tucker, and Officers Torres and Samuels. As they approached Christopher Travis, the man seated in the far corner of the room, Officer Torres said to him, "Don't touch your bag." Ignoring Officer Torres' directive, Mr. Travis pulled a gun from his bag. Officer Long withdrew his own weapon and yelled to Mr. Travis, "Drop the gun, drop the gun!"

Officer Long noticed several people between him and Mr. Travis as he heard Officer Torres yell, "Get those people out of here!" As he saw Mr. Travis raise his gun and point it in the direction of Officer Torres, Officer Long heard several gunshots from his left. He then noticed Officer Torres kick Mr. Travis's gun out of the way. He and Officer Torres then began to administer first aid to Mr. Travis.

#### **WITNESS STATEMENTS – HSB FACULTY**

**SUSIE JORDAN**

Police interviewed Susie Jordan shortly after the shooting. Ms. Jordan is an analyst for the Dean of the HSB. At approximately 2:00 PM on the afternoon of the shooting, Ms. Jordan entered the elevator on the first floor of the Student Services Building. She was immediately followed into the elevator by Christopher Travis. Ms. Jordan's destination was the building's 5<sup>th</sup> floor. She pressed the button for her floor and asked Mr. Travis if he were traveling to the 5<sup>th</sup> floor as well. Mr. Travis replied that he was going to the 3<sup>rd</sup> floor. Ms. Jordan pushed the button for the 3<sup>rd</sup> floor and the elevator began to ascend.

Ms. Jordan and Mr. Travis were the only occupants of the elevator. Ms. Jordan stood directly behind Mr. Travis, who faced the elevator doors. Mr. Travis was carrying a large black backpack. The backpack was resting on his right shoulder. As the elevator traveled to the 3<sup>rd</sup> floor, Mr. Travis unzipped a pouch on the backpack. He reached into the open pouch and removed a large handgun. The gun appeared silver and black in color. Mr. Travis removed the handgun completely from the backpack in a manner that suggested to Ms. Jordan that he wished her to see it. Mr. Travis then placed the gun back into the pouch of the backpack and drew it closed with the zipper. When the elevator doors opened at the 3<sup>rd</sup> floor, Mr. Travis exited. Ms. Jordan continued riding the elevator until it reached her 5<sup>th</sup> floor destination.

When she exited the elevator at the 5<sup>th</sup> floor, Ms. Jordan saw Lyle Nevels, the Chief Technology Officer at the HSB. She described to Mr. Nevels what she had seen in the elevator. She and Mr. Nevels then began to search for Mr. Travis. They looked for him in several areas including a student lounge and an outdoor courtyard.

Approximately 15 minutes after she saw Mr. Travis with a gun in the elevator, Ms. Jordan, and Mr. Nevels observed him in Room S300, a computer lab on the 3<sup>rd</sup> floor of the Student Services Building. Mr. Travis was standing at a counter and appeared to be interacting with a student employee of the computer lab. Ms. Jordan and Mr. Nevels remained in the lobby

outside the computer lab and Mr. Nevels immediately placed a call to Gerardo Campos, the Building Coordinator, who came to the 3<sup>rd</sup> floor lobby and met with Ms. Jordan and Mr. Nevels.

When Mr. Campos arrived at the 3<sup>rd</sup> floor lobby, he was briefed on the situation by Mr. Nevels, after which Mr. Campos immediately placed a call to police by dialing 911. While awaiting the arrival of police, Mr. Travis disappeared from view. Mr. Nevels then entered the computer lab. He returned a few moments later and said that he observed Mr. Travis seated in the rear corner of Room S300T.

Approximately 5 minutes after Mr. Campos placed his call to police, officers of the University of California at Berkeley Police Department began to arrive at the 3<sup>rd</sup> floor lobby. Mr. Nevels briefed them on the situation at hand. Ms. Jordan described Mr. Travis to officers and told them he was the man she had seen with a gun. She said he was not very tall, was heavysset, had short hair, and was carrying a dark colored backpack.

Ms. Jordan watched as several police officers entered Room S300. She remained in the lobby outside Room S300, but lost sight of Mr. Nevels and Mr. Campos. Shortly thereafter, several students began running out of Room S300. One of the students was yelling, "He's got a gun . . . run, run!" Ms. Jordan, fearing for her safety, immediately ran from the area. She did not recall hearing any gunshots.

## **LYLE NEVELS**

Police interviewed Lyle Nevels shortly after the shooting. Mr. Nevels is the Chief Technology Officer at the HSB. Sometime after 2 PM on the day of the shooting, Mr. Nevels was in his 5<sup>th</sup> floor office in the Student Services Building of the HSB when Susie Jordan arrived. Ms. Jordan told him she had just come from the elevator where she had seen a man display a gun. She told Mr. Nevels that she had seen the man remove a gun from a backpack he was carrying, return the gun to the backpack and exit at the 3<sup>rd</sup> floor.

Ms. Jordan described to Mr. Nevels the man she had seen with the gun. The two then left Mr. Nevels' office and began a search for the man. They went to the third floor and began their search in the adjoining Faculty Building. They next searched an outdoor courtyard then checked the MBA Student Lounge. Mr. Nevels suggested they check the computer center on the 3<sup>rd</sup> floor of the Student Services Building, Room S300.

When they arrived at the lobby outside Room S300, Ms. Jordan observed Christopher Travis at the front desk of the computer lab speaking with a student staff member. She pointed Mr. Travis out to Mr. Nevels and told him that Mr. Travis was the man she had seen with a gun. A few moments later, Mr. Travis walked away from the front desk and headed toward the back of the computer lab, in the direction of Room S300T. Mr. Nevels entered Room S300 and walked toward the entrance to Room S300T. There he was able to see Mr. Travis seated at a computer workstation in the far right corner of the room. He also observed four to five students at other computer work stations within the room.

Mr. Nevels then placed a call to Gerardo Campos, the Building Coordinator, and asked him to come to the 3<sup>rd</sup> floor lobby outside Room S300. Mr. Campos arrived and was informed of the situation by Mr. Nevels. Mr. Campos immediately told Mr. Nevels to call police. Mr. Nevels then placed a call to 911 and described the situation to police dispatchers.

A few minutes after Mr. Nevels called police, officers of the University of California at Berkeley Police Department began to arrive at the 3<sup>rd</sup> floor lobby outside Room S300. Mr. Nevels told police about the man seen with a gun and described Mr. Travis and the location at which he had seen him in Room S300T. Mr. Nevels then lead several officers through Room S300 and toward the door to Room S300T. There he pointed out Mr. Travis for police. Mr. Nevels remained in the doorway as officers entered the room and headed toward Mr. Travis.

As he stood in the doorway to Room S300T, Mr. Nevels could see Mr. Travis and one of the officers who had entered the room. That officer was standing close to the back wall of Room S300T. The other officers were obscured from his view by a partition wall just inside and to the right within Room S300T. Mr. Nevels could hear someone yelling, “drop you weapon . . . drop your gun!” He heard the command, “drop your gun,” at least three times. As he heard the commands, he observed Mr. Travis sitting with a “cold stare.” As if he was “looking through” something. Mr. Travis’ hands were blocked from Mr. Nevels’ view by the computer monitor at the workstation. He was only able to see Mr. Travis from the chest up. It appeared that Mr. Travis had his hands in the area of his lap, or near his sides.

As the commands to drop the gun were being issued, Mr. Nevels was distracted by “Jesse,” a computer lab employee, who came up behind him as he stood in the doorway. Mr. Nevels stepped back from the entrance to Room S300T and heard 3 to 4 gunshots fired in quick succession. The scene then became chaotic, with students running from Room S300T and Room S300. Mr. Nevels heard someone mention a need for paramedics.

### **GERARDO CAMPOS**

Police interviewed Gerardo Campos shortly after the shooting. Mr. Campos is the Building Coordinator at the HSB. Part of his responsibility is the safety and security of students and faculty. At approximately 2 PM on the afternoon of the shooting, Mr. Campos was in a meeting in the Student Services Building of the HSB. He received a telephone call from Lyle Nevels, his superior. Mr. Nevels asked Mr. Campos to meet him in the lobby outside the computer center.

Mr. Campos proceeded to the lobby outside the computer center where he met with Mr. Nevels and Susie Jordan. Ms. Jordan told Mr. Campos that she had seen a man displaying a gun in the elevator and that the man had exited the elevator at the 3<sup>rd</sup> floor. Mr. Campos immediately

dialed 911 on his cellular phone. While informing the police dispatcher who answered his call of the situation at hand, Mr. Campos was asked to describe the man who was seen displaying a gun. Mr. Campos passed his phone to Mr. Nevels, who provided the description of the man who was pointed out to him by Ms. Jordan.

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Within 2 minutes of placing the call to police, Mr. Campos observed the first officer arrive. Within 30 seconds of the first officer's arrival, 5 to 6 more officers arrived at the location outside the computer center. Mr. Campos heard Mr. Nevels provide police with information on the man with a gun, including his description and location.

Mr. Campos followed the officers into the computer room and to the threshold of Room S300T. At some point he observed officers with their guns drawn. Mr. Campos lost sight of two of the officers who entered the room, maintaining a visual sight of only one of them. He heard someone yell, "Drop the gun," at least twice, followed by approximately 4 gunshots. The gunshots came in quick succession. Mr. Campos did not see the individual toward whom the officers had directed their attention.

After the gunshots rang out, Mr. Campos focused on making sure students and faculty were safely ushered from the building.

#### **WITNESS STATEMENTS – HSB STUDENTS**

During their investigation, police interviewed all 11 of the students who were present in Room S300T at the time of the shooting. All gave similar accounts of the incident. Three were seated in the row occupied by Christopher Travis. However, the table at which he sat was slightly off-set behind the table at which the three were seated placing him to their right and slightly behind them. None of the 11 saw the gun Mr. Travis held pointed at police. However,



all but one saw the officers enter and all but one clearly heard the officers issuing verbal commands. Below is a representative sample of the statements given by students:

**Jacqueline Lalanne** is a student at the HSB who was working in Room S300T at the time of the shooting. She saw four uniformed police officers enter the room and walk past where she was sitting. She saw them face Mr. Travis and heard them yell, "Put the gun down." She immediately got to the floor and made her way out of the room. After exiting Room S300T she heard a series of gunshots.

**Brendan Joyce** is a student at the HSB. He was in Room S300T talking with friends at the time of the shooting. He saw several police officers enter the room and approach Mr. Travis, who he described as looking "creepy." He heard police yell out, "Drop the gun!" When he heard this, he grabbed his friend, "Victoria," pulled her to the ground and the two made there way out of the room.

**Michael Trudgeon** is a student at the HSB. He had been working in Room S300T for around 20 minutes when he noticed four to five uniformed police officers enter the room. He saw them go to the row of table where Mr. Travis was seated in the corner then heard them begin to yell at him to "Drop the gun." His view of Mr. Travis was partially blocked by a computer monitor, allowing him only to see Mr. Travis from the chest up. He noticed no reaction on the part of Mr. Travis to the commands being issued by the officers. He dropped to the ground and began to crawl out of the room before hearing several gunshots.

## INVESTIGATION

When DDA Lamiero and Inspector Moschetti arrived at the scene they conducted a walk-through of the shooting scene with Investigators from the University of California at Berkeley Police Department and the Alameda County Sheriff's Department. Christopher Travis was no

longer at the scene, having already been transported to Alameda County Hospital, where he subsequently died as a result of his injuries.

Several items of blood soaked clothing, along with evidence of emergency medical treatment were present in the southwest corner of Room S300T. In addition, a backpack was on the ground under the table at which Mr. Travis had been sitting. Five expended shell casings were also scattered on the ground under the tables in and around the southwest quadrant of the room.

On the ground near where Mr. Travis had been seated was his "Ruger Model P89" 9mm semi-automatic pistol. The pistol was loaded with seven rounds of ammunition contained within a magazine. However, no ammunition was contained in the firing chamber.

Room S300T was equipped with a digital video camera which was operating at the time of the shooting. From the perspective of the camera, footage was obtained showing the southwest corner of the room. DDA Lamiero and Inspector Moschetti went to a room just off Room S300 and viewed video footage of the incident.

In the video, Mr. Travis can be seen sitting in a chair, facing a computer monitor, in the southwest corner of Room S300T. Just forward of his position and to his left are three female students. They are positioned beginning at the aisle, moving toward the south wall. In front of the female students is a male student sitting in the aisle position. He can be seen alternately working on the computer at his workstation and turning around to talk with the female students.

Mr. Travis is seen sitting at a computer workstation for approximately 15 minutes before police arrive. He appears to sit quietly, facing the east wall of the room and having no interaction with other people.

Four uniformed police officers are seen entering Room S300T. Officers Torres, Long and Samuels are seen walking down the center aisle toward the last row, where Mr. Travis is

seated in the corner. When they reach the last row, the three female students are positioned between them and Mr. Travis. Sgt. Tucker is seen turning into a row a few tables before the last row, placing him in front of Mr. Travis, offset by 45 degrees to Mr. Travis' left, at a distance of approximately 10 feet.

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Officers Torres, Long and Samuels are next seen drawing their guns and aiming them in the direction of Mr. Travis. They are also seen hurriedly prompting the female students to move out of the area. Sgt. Tucker can be seen drawing his gun and aiming it at Mr. Travis as the three female students, along with the male student in the row in front of them drop to the ground and begin to crawl away. Almost simultaneously, Mr. Travis' body is seen reacting to the impact of the shots fired by Sgt. Tucker. After being shot, Mr. Travis is seen looking in the direction of Sgt. Tucker and tapping his right temple area with his right hand several times in quick succession.

After Mr. Travis is shot, Sgt. Tucker is seen immediately re-holstering his firearm and moving back toward the center aisle. Officers Torres, Samuels and Long are seen approaching Mr. Travis and helping him to the ground.

### **AUTOPSY RESULTS**

On November 16, 2011, Dr. Thomas R. Beaver performed an autopsy on the body of Christopher Travis. He determined that Mr. Travis was 6 feet tall and weighed 203 pounds. Examination of the body of Mr. Travis revealed that he died as a result of gunshot wounds to his chest and abdomen. Additionally, he found that Mr. Travis had suffered gunshot wounds to his left arm, right hand, and pelvis. One bullet entered along the midline of the middle chest area and passed through the right ventricle of the heart, left lung, liver and diaphragm before exiting the left back just below the left shoulder blade. Another entered the left chest and passed

through the left lung before exiting the left upper arm. Additionally, a bullet passed through the right hand, and another passed through the right hip.

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### **ADDITIONAL INFORMATION**

During the course of the investigation, other information developed that tends to suggest that Christopher Travis may have been suicidal on November 15, 2011. It would not have been the first time Mr. Travis engaged in suicidal behavior. According to Humboldt County Sheriff's Department report number 200307540, On November 11, 2003, Mr. Travis attempted suicide by swallowing an excessive amount of prescription sleeping pills. He was found and taken to a nearby hospital. He admitted that his overdose was an attempt to end his own life.

According to Oakland Police Department report number 11-044693, on September 11, 2011, Mr. Travis pulled his car alongside a marked Oakland Police patrol car being driven by Officer Dometrius Fowler. He called out to Officer Fowler, asking him, "Are you busy?" Officer Fowler replied, "No." Mr. Travis then exited his car, walked to his trunk, opened it and removed a 9mm pistol. He then removed a loaded magazine from the pistol and approached the passenger side of Officer Fowler's patrol car, tossing both through the open window onto the passenger seat, saying to Officer Fowler, "It's bad luck." Officer Fowler took a statement from Mr. Travis regarding the surrender of a firearm.

According to Berkeley Police Department report number 2011-00061117, on October 28, 2011 officers went to an apartment in Berkeley in response to a call of a firearm being discharged in a bedroom. Officer Anthony Cerletti contacted Mr. Travis, who initially denied having a gun. Mr. Travis then reached under some papers on a desk and without warning pulled out a loaded 9mm Springfield pistol, which he pointed in the direction of Officer Cerletti. Mr. Travis pulled the slide back on the gun, ejecting a round of ammunition from the chamber,

grinned and slowly gave the gun over to Officer Cerletti. Mr. Travis told Officer Cerletti of the incident with Officer Fowler. He said he had turned the gun over to OPD because a Ouija Board had informed him the gun was cursed. During the investigation of Mr. Travis' death, Officer Cerletti said that he believed Mr. Travis was attempting suicide when he discharged his gun on October 28, 2011.

Finally, Mr. Travis' personal laptop computer was recovered. A search of the computer revealed a video made by Mr. Travis on September 7, 2011. In the video, Mr. Travis is seen lying on a bed while handling a pistol. He looks at the gun from various angles and at one point pulls the slide and ejects several rounds of ammunition then drops the magazine from the gun. He then pulls the slide back and checks to see that the gun is free of ammunition. He then pulls the trigger. Mr. Travis continues lying on the bed and looking at the gun before the video ends.

After the shooting, members of Mr. Travis' family were interviewed. Several described how his behavior had recently changed. He was described as distant, and uncommunicative. Of note is that Mr. Travis had told family members he had recently taken a "road trip" alone to Louisiana. To his family, this is significant because he had taken a long "road trip" alone just prior to his 2003 suicide attempt.

### **APPLICABLE LAW**

**HOMICIDE:** Homicide is the killing of one human being by another. Homicide is either lawful, or unlawful. Homicide includes murder and manslaughter, which are unlawful, and the acts of excusable and justifiable homicide, which are lawful.

**MURDER:** Murder is the unlawful killing of a human being with malice aforethought. (**Penal Code Section 187**) Malice aforethought may be express or implied. It is express when there is

manifested a deliberate intention to unlawfully take away the life of a human being. It is implied when no considerable provocation appears, or when the circumstances attending the killing show an abandoned and malignant heart. **(Penal Code Section 188)**

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**MANSLAUGHTER:** Manslaughter is the unlawful killing of a human being without malice. Voluntary Manslaughter is a killing which occurs upon a sudden quarrel, or in a heat of passion. **(Penal Code Section 192)**

**JUSTIFIABLE HOMICIDE BY PUBLIC OFFICER:** Homicide is justified when committed by public officers and those acting by their command in their aid and assistance when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty. **(Penal Code Section 196(2))**

**JUSTIFIABLE HOMICIDE BY ANY PERSON:** Homicide is justifiable when committed by any person when resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person. **(Penal Code Section 197(1))** Homicide is also justifiable when committed in attempting, by lawful ways and means, to apprehend any person for any felony committed or in lawfully keeping and preserving the peace. **(Penal Code Section 197(4))**

### **APPLICABLE JURY INSTRUCTIONS**

Homicide is the killing of one human being by another. Murder and manslaughter are types of homicides. A homicide can be lawful or unlawful. If a person kills with a legally valid excuse or justification, the killing is lawful and he has not committed a crime. If there is no

legally valid excuse or justification, the killing is unlawful and, depending on the circumstances, the person is guilty of either murder or manslaughter. **(CALCRIM 500)**

A person is not guilty of murder or manslaughter if he was justified in killing someone in self-defense or defense of another. Such a person acted in lawful self-defense or defense of another if:

1. That person reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury;
2. That person reasonably believed that the immediate use of deadly force was necessary to defend against that danger;
3. And that person used no more force than was reasonably necessary to defend against danger.

The person must have believed there was imminent danger of great bodily injury to himself or someone else. His belief must have been reasonable and he must have acted only on that belief. He is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If he used more force than was reasonable, the killing was not justified.

When deciding whether the person's beliefs were reasonable, consider all the circumstances as they were known to and appeared to this person and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the person's beliefs were reasonable, the danger does not need to have actually existed.

If you find the decedent threatened or harmed the person or others in the past, you may consider that information in deciding whether his conduct and beliefs were reasonable.

Someone who has been threatened or harmed by the decedent in the past is justified in acting more quickly or taking greater self-defense measures against that person.

The person is not required to retreat. He is entitled to stand his ground and defend himself and, if necessary, to pursue an assailant until the danger of death or great bodily injury has passed. This is so even if safety could have been achieved by retreating.

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The People have the burden of proving beyond a reasonable doubt that the killing was not justified. If the People have not met this burden, you must find the person not guilty of murder or manslaughter. **(CALCRIM 505)**

A person is not guilty of murder or manslaughter if he killed someone while acting as a public officer. Such a killing is justified, and therefore not unlawful, if:

1. The person was a public officer;
2. The killing was committed while overcoming some actual resistance to some legal process or while performing any other legal duty;
3. The killing was necessary to accomplish one of those lawful purposes;
4. And that person had probable cause to believe that the individual killed posed a threat of serious physical harm, either to the public officer or to others.

A person has probable cause to believe that someone poses a threat of serious physical harm when facts known to the person would persuade someone of reasonable caution that the other person is going to cause serious harm to another.

The People have the burden of proving beyond a reasonable doubt that the killing was not justified. If the People have not met this burden, you must find the defendant not guilty of murder or manslaughter. **(CALCRIM 507)**

### **ANALYSIS AND CONCLUSION**

The question addressed by the Alameda County District Attorney's Office is whether the shooting of Christopher Travis by Sgt. Andrew Tucker constituted a violation of law. The nature



and quality of the evidence must be measured against the standards employed by the District Attorney's Office in deciding whether to charge any individual with the commission of any crime. The California District Attorney's Uniform Crime Charging Standards Manual directs that criminal charges shall not be brought unless the prosecutor, based upon a complete investigation and thorough consideration of all the evidence, is satisfied that the evidence shows the accused is guilty of the crime to be charged. Additionally, the charging standards direct that there must be legally sufficient admissible evidence to prove each element of the crime. At the time of charging, the admissible evidence must be of such convincing force that it would warrant conviction of the crime by a reasonable and objective fact finder after that fact finder has heard all the evidence and after considering the most plausible, foreseeable defenses that could be raised by the evidence.

Sgt. Tucker provided a voluntary statement. His description of the shooting and the events leading thereto was corroborated by the statements of other involved officers, student and faculty witnesses, video evidence, and physical evidence recovered at the scene of the shooting.

Viewed in totality, the evidence strongly suggests that Mr. Travis intentionally provoked a violent confrontation with police. During the elevator ride with Susie Jordan, his actions indicate that he wanted her to see the gun he was carrying.

Sgt. Tucker is an experienced police officer. He responded to a call of a man with a gun. He quickly, but calmly and professionally, developed a plan for approaching the situation. His intention was to not create an unnecessary disturbance. On the contrary, his plan was to "low-key it," but to be prepared, telling the other officers to "watch his hands." When he entered the room, Sgt. Tucker took a position off-set from the other officers, allowing him to better monitor the contact rather than to directly confront the suspect.

When Sgt. Tucker heard other officers telling the suspect to, "Drop the gun," he took the time necessary to shift his position in order to confirm for himself that the suspect was in fact armed. Moreover, he quickly looked at the gun to make certain it wasn't a replica but was, rather, a real firearm. He clearly saw that the firearm was pointed at police officers. Sgt. Tucker then issued his own, loud commands to the Mr. Travis to, "Drop the gun!" Seeing no reaction, and believing that Mr. Travis was about shoot and kill police officers or others within Room S300T, he saw no other option but to fire his own weapon at Mr. Travis. All the information available at the time supports Sgt. Tucker reasonable belief the use of deadly force was necessary to prevent an imminent threat of death or great bodily injury posed by Christopher Travis. After being shot, Mr. Travis dropped his gun, looked in the direction of Sgt. Tucker, and several times with his right hand tapped his right temple area.

In applying the California District Attorney's Uniform Crime Charging Standards to the facts in the present case, it is this office's opinion that there is insufficient evidence to warrant filing any charges against Sgt. Andrew Tucker in connection with the shooting death of Christopher Travis. This office contemplates no further action in this case. The investigation is considered closed and the materials collected will be kept on file with the Alameda County District Attorney's Office.

Submitted by:

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